

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**FOREIGN ADOPTION PETITION NO. 22 OF 2022
WITH
JUDGE'S ORDER NO. 89 OF 2022
IN
FOREIGN ADOPTION PETITION NO. 22 OF 2022**

Bal Asha Trust (through Sunil K. Arora) ...Petitioner
And
Stefano Marrone and Lucilla Gola Russo
Italian Nationals ...Proposed Adopters

Mr. Rakesh Kapoor, for the petitioner.
Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare.
Ms. Shonali Dighe, Chamber Registrar.

**CORAM : MANISH PITALE, J
DATE : 20th JANUARY, 2023**

P.C. :

. By this petition filed under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015, the petitioner being a recognized agency for adoption by the State Government and Central Adoption Resource Authority (CARA), New Delhi, has approached this Court seeking an order for adoption of a minor girl child Bana Muthu by the proposed adopters.

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2. Heard Mr. Kapoor, the learned counsel for the petitioner and Mr. O. Hareendran, Scrutiny Officer, Indian Council of Social Welfare. He has tendered report of the said council in the context of the present petition. The same is taken on record and marked 'X'.

3. It is stated in the petition that the minor girl child Urvashi was found abandoned on or about 9/8/2013, at the Kurla Railway Police Station and she was admitted to an Observation Home at Mankhurd, Mumbai. Thereafter, the said minor child was presented before the Child Welfare Committee (CWC), Mumbai City II, on 24/9/2020 and the custody of the child was given to the petitioner institution under the provisions of the said Act. Subsequently, the CWC passed an order under Section 38 of the said Act, declaring the minor legally free for adoption on 15/2/2021. The CARA has issued its no objection certificate on 22/3/2022, for adoption of the minor child, which is placed on record. The proposed adopters are Italian Nationals, having been married for the past 18 years and they do not have any biological child. Medical certificates alongwith copies of passport and marriage certificate have been placed on record, in order to support the statements made on behalf of the proposed adopters.

4. The material on record shows that the prospective adoptive father is working as a Administrative Employee with Pasquale Aiello Studio, Isernia, Italy and his gross salary for the year 2020 was Euro 18,832.00. The prospective adoptive mother is working as a

Medical Director of Geriatrics with Local Health Authority and her gross salary for the year 2020 was Euro 69,208.36. The documents supporting the aforesaid submission, in the form of employment certificate and Income Tax Returns are placed on record.

5. The aforesaid report submitted on behalf of the Indian Council for Social Welfare supports the submission made in the petition. Other necessary documents including medical reports etc. are placed on record.

6. This Court has perused the material on record and it is found that the prayers made in the present petition can be granted in the interest of justice.

7. It is significant to note that a recent order passed by the Division Bench of this Court in the case of *Nisha Pradeep Pandya alias Nisha Amit Gor and Anr. Vs. Union of India and Ors. in Writ Petition No.32065/2022 on 10/1/2023* has specifically granted a direction as an ad-interim order that pending the challenge to the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021, the petitions already filed and pending can be placed before the concerned Court and that adjudication such matters can continue during the pendency of challenge raised against the Amendment Act. The relevant portion of said order of Division Bench reads as follows :

“8. In the meantime, there will be an ad-interim order only until the next date in terms of prayer clauses (d), (e) and (f) of the petition which reads as follows:

(d) Pending the final hearing and disposal of the present petition, the Hon’ble Court may be pleased to stay the effect, implementation and purport of the letter dated 30th September, 2022 issued by Respondent No.2;

(e) Pending the final hearing and disposal of the present petition, the Hon’ble Court may be pleased to direct the Respondents not to transfer pending adoption matters before the District Magistrates for adjudication.

(f) Pending the final hearing and disposal of the present petition, the Hon’ble Court may be pleased to direct the Hon’ble Courts to continue with the adjudication of the adoption matters that are pending on their record and file.”

8. In view of the above, the petition stands allowed in terms of prayer clauses (a) to (e) which read as follows :

(a) For the Adoption of the proposed minor Bana Muthu born on 09/08/2013 by the proposed Adopters under Section 59 (7) of the Juvenile Justice Act, 2015.

(b) For declaring the Proposed Adopters as Adoptive Parents of the said minor Bana Muthu having all parental rights, privileges and responsibilities over the said minor

now in the care and custody of Bal Asha Trust, Bal Asha Dham, Anand Niketan, Dr. E. Moses Road, Mahalaxmi, Mumbai - 400 011

(c) Leave/permission be granted to apply the concerned Municipal Authorities to issue Birth Certificate of the said minor Bana Muthu born on 09/08/2013 and showing the proposed adopters as Parents.

(d) That the Proposed Adopters may be granted leave to remove the said minor Bana Muthu from the jurisdiction of this Hon'ble Court and to take the said minor to ITALY or wherever they may reside in future.

(e) Pass such other or further orders as it may deem fit and proper on the facts and in the circumstances of the case.

9. The Judge's order is separately signed.

(MANISH PITALE, J)